



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029**

Certified Mail  
Return Receipt Requested

MAY 13 2015

The Honorable Deborah Lee James  
Secretary, U.S. Air Force  
1670 Air Force Pentagon  
Washington, DC 20330-1670

Lt. Gen. Christopher F. Burne  
Judge Advocate General, U.S. Air Force  
1420 Air Force Pentagon, Room 4C915  
Washington, DC 20330-1420

Re: Horsham Air Guard Station f/k/a Willow Grove Air Reserve Station  
EPA Docket No. SDWA 03-2015-0131DS

Dear Secretary James and Lt. Gen. Burne,

Enclosed please find an Administrative Order issued to the Air National Guard, a component of the U.S. Air Force, and the U.S. Air Force (collectively, "Respondents") issued by the U.S. Environmental Protection Agency, Region III (EPA). The Order requires actions to be taken by Respondents to protect human health in response to the discovery of perfluorinated compound contamination at certain public and private water supply wells in the vicinity of the Horsham Air Guard Station in Horsham, Pennsylvania.

Pursuant to the Order, Respondents have the opportunity to confer with EPA in regard to the terms of this Order if such a request is received within three (3) days of receipt of this Order. Any such conference will be held no later than six days after Respondent's receipt of this Order unless a different date is confirmed by EPA. Requests for a conference shall be submitted to:

Mr. Roger Reinhart  
Ground Water and Enforcement Branch  
U.S. Environmental Protection Agency, Region III  
1650 Arch Street  
Philadelphia, PA 19103  
Phone: (215) 814-5462  
Email: [reinhart.roger@epa.gov](mailto:reinhart.roger@epa.gov)

Thank you for your cooperation in this matter. If you have any questions you may contact Karen Johnson, Chief of the Ground Water & Enforcement Branch, at 215-814-5445, or your counsel may contact Lori Kier, Assistant Regional Counsel, at 215-814-2656.

Sincerely,



Jon M. Capacasa, Director  
Water Protection Division

Cc: Col. Howard Eissler, Horsham Air Guard Station  
Mr. Richard McCoy, U.S. Air Force, Andrews Air Force Base  
Lori Kier, Esq., U.S. EPA Region 3, Office of Regional Counsel  
Ms. Karen Johnson, U.S. EPA Region 3, Water Protection Division

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III**

In the Matter of:	)	
	)	
Air National Guard, a component of the	)	Docket No.: SDWA-03-2015-0131DS
U.S. Air Force,	)	
	)	
and	)	
	)	
U.S. Air Force,	)	
	)	Proceeding Under Section 1431 of the
Respondents.	)	Safe Drinking Water Act (SDWA), 42
	)	U.S.C. § 300i.
Horsham Air Guard Station	)	
f/k/a Willow Grove Air Reserve Station	)	
PWS ID #PA1460045	)	
Willow Grove, Pa 19090-5030	)	
	)	
Facility.	)	

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**ADMINISTRATIVE ORDER**

**I. STATUTORY AUTHORITY**

1. This Order is issued to the Air National Guard, a component of the United States Air Force, and the U.S. Air Force (collectively, "Respondents"), pursuant to the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 1431(a) of the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300i(a).

2. The Administrator of EPA has delegated the authority to take this action to the Regional Administrator of EPA Region III by EPA Delegation 9-17 (1200-TN-350) (May 11, 1994), and the Regional Administrator has delegated the authority to take these actions to the EPA Region III Water Protection Division Director by Regional Delegation 1200 TN RIII-110 (Sept. 12, 1994).

## **II. PARTIES BOUND**

3. This Order shall apply to and be binding upon the Respondents, and upon their successors and assigns, as well as affiliated organizations, agents, contractors, and consultants.

## **III. DEFINITIONS**

4. All terms not otherwise defined herein shall have their ordinary meanings unless defined in the SDWA or its implementing regulations, in which case the statutory or regulatory definition shall control.

a. "Contaminant" means "any physical, chemical, biological, or radiological substance or matter in water." *See* 42 U.S.C. § 300f(6). For purposes of this Order, this definition includes "unregulated contaminants" within the meaning of the Unregulated Contaminant Monitoring Rule (UCMR), 77 Fed. Reg. 26072 (May 2, 2012), requiring analysis of substances which are suspected to be present in drinking water but that do not yet have health-based standards set under the SDWA.

b. "Contractor" means any person, including contractors, subcontractors, or agents, retained or hired by Respondents to undertake any requirements under this Order.

c. "Day" means a calendar day, unless otherwise specified. When a stated time expires on a Saturday, Sunday or Federal Holiday, the stated time shall be extended to include the next business day.

d. "EPA" or "the Agency" means the U.S. Environmental Protection Agency.

e. "Facility" means the Horsham Air Guard Station f/k/a Willow Grove Air Reserve Station, as depicted in Administrative Record Document No. 3, including but not limited to Public Water System ID #PA1460045, which is a portion of the Facility, located in Horsham Township, Montgomery County, Pennsylvania.

f. "Finished water" means water that has passed through all the processes in a system's water treatment plant and is ready to be delivered to consumers.

g. "Impacted wells" or "wells impacted by PFCs" shall mean wells in the Vicinity of the Facility that have been sampled and determined to have concentrations in excess of the Provisional Health Advisory (PHA) values established under the SDWA.

h. "Micrograms per liter" ( $\mu\text{g/l}$ ) is the same as "parts per billion" (ppb).

i. "Navy Property" means the Naval Air Station Willow Grove located on Route 611 in Horsham Township, Montgomery County, Pennsylvania, adjoining the Facility, where the Navy retains ownership.

j. "Order" means this Administrative Order, issued pursuant to Section 1431(a) of the SDWA, 42 U.S.C. § 300i(a), any attachments and appendices to this Order, and all documents that are to be produced or submitted pursuant to this Order in accordance with Section IX herein. All attachments and appendices to this Order, and all documents that are submitted to and approved by EPA pursuant to this Order, are incorporated into this Order, and shall be enforceable hereunder.

k. "PADEP" means the Pennsylvania Department of Environmental Protection.

l. "Person" means an individual, corporation, company, association, partnership, State, municipality, or Federal agency (and includes officers, employees, and agents of any corporation, company, association, State, municipality, or Federal agency), consistent with 42 U.S.C. § 300f(12).

m. "PFCs" means perfluorinated compounds, which are man-made compounds with multiple carbon-fluorine bonds. PFCs include perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS).

n. “Private drinking water supply well” means a system used by individual residents, or one that has fewer than fifteen service connections or regularly serves fewer than 25 persons per year from a well or other surface or ground water source and is not otherwise a Public Water System.

o. “Provisional Health Advisory” or “PHA” means “values [that] are developed [by EPA] to provide information in response to an urgent or rapidly developing situation. They reflect reasonable, health-based hazard concentrations above which action should be taken to reduce exposure to unregulated contaminants in drinking water. They will be updated as additional information becomes available and can be evaluated.” *See* Administrative Record Document No. 17.

p. “Public Water System” or “PWS” means a system that provides piped drinking water for human consumption, if such system has at least fifteen service connections or regularly serves an average of at least twenty-five individuals daily at least 60 days out of the year, within the meaning of Section 1401(4) of the SDWA, 42 U.S.C. § 300f(4), and 40 C.F.R. § 141.2.

q. “Region 3” or “the Region” means EPA Region 3.

r. “Respondents” means the Air National Guard (as a component of the U.S. Air Force), and the U.S. Air Force.

a. “Underground source of drinking water” or “USDW” means an aquifer or its portion:

- (i) (A) which supplies any public water system, or
- (B) which contains a sufficient quantity of ground water to supply a public water system; and either
- (1) currently supplies drinking water for human consumption, or
- (2) contains fewer than 10,000 milligrams per liter total dissolved solids;
- and

(ii) which is not an exempted aquifer. *See* 40 C.F.R. § 144.3

b. “Vicinity of the Facility” and “Vicinity of the Navy Property” mean an approximate one-mile radius extending from the outer edges of the Facility or the Navy Property boundary, respectively.

c. “Water source” means any water prior to treatment of any kind.

#### **IV. ALLEGATIONS**

5. In 1995, the Facility and the Navy Property were both listed on the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601 *et seq.* (CERCLA) National Priorities List (NPL) due to potential volatile organic compound contamination.

6. In 2005, the U.S. Department of Defense closed the Naval Air Station Joint Reserve Base (NASJRB) Willow Grove pursuant to the Defense Base Closure and Realignment Act of 1990 (P.L. 101-510), as amended (BRAC).

7. In 2005, Navy transferred a portion of the Naval Air Reserve Center to the U.S. Air Force.

8. In 2009, Navy transferred an additional portion of the Naval Air Reserve Center to the U.S. Air Force, which expanded the Facility to its present footprint (hereinafter, “the Facility”).

9. The Facility continues to be operated as an Air Guard Station and PWS serving approximately 440 Air Guard employees during their working hours on base.

10. Studies have shown that PFOA and PFOS are highly persistent in the environment with little or no degradation occurring in air, water or soil. Studies indicate that PFOA and PFOS can cause developmental, reproductive, and other adverse effects in laboratory animals. The

most consistent findings from epidemiology studies are elevated serum total cholesterol levels among exposed populations with more limited findings related to low infant birth weights.

11. On or about January 8, 2009, the EPA Office of Water established Provisional Health Advisories (PHAs) for PFOA and PFOS, Administrative Record Document No. 17, with a value of 0.4 µg/l for PFOA and 0.2 µg/l for PFOS in drinking water.

12. As of the date of this Order, EPA is developing human health effects information for PFOA and PFOS. Once finalized, EPA anticipates being able to derive lifetime health advisories for PFOA and PFOS in drinking water which will supersede the PHAs issued in 2009.

13. Pursuant to DOD Instruction 4715.18 (2009) regarding emerging contaminants, analyses of ground water samples collected by the Navy in 2012 and 2013 from wells located near the sources of potential contamination at the Navy Property detected PFOA and PFOS contamination in excess of PHA values.

14. Pursuant to the five-year review process under Section 121 of CERCLA, 42 U.S.C. § 9621, analyses of ground water samples collected by the Navy in 2014 and 2015 from wells located near the sources of potential contamination at the Facility revealed PFOA and PFOS contamination in excess of PHA values.

15. The Facility includes a PWS (Horsham Air Guard Public Water System, ID #PA1460045) (hereinafter, "Horsham Air Guard PWS"), which consists of two drinking water wells (Wells #1 and #2), an underground storage tank, and a distribution system serving the Facility.

16. The Region issued an Information Request to Respondent Air National Guard in August 2014 (hereinafter, "Information Request"), pursuant to Section 1445 of the SDWA, 42 U.S.C. § 300j-4, to require sampling of the Horsham Air Guard PWS for PFOA and PFOS since



they were likely to be present in Facility Wells #1 and #2. Respondent Air National Guard detected PFOA and PFOS in excess of PHA values, ranging up to approximately 3.5 µg/l PFOA and 13.1 µg/l PFOS.

17. In October 2014, following the sampling required by EPA's August 2014 Information Request and identifying concentrations cited in paragraph 16, Respondent Air National Guard inactivated Facility Water Supply Wells #1 and # 2, and also provided public notice to persons served by the water system in accordance with its responsibilities as an owner/operator of a PWS. As of the date of this Order, Respondents provide bottled water for consumption and those Water Supply Wells are used only for non-potable purposes.

18. Pursuant to the requirements of the UCMR, analyses of ground water samples collected from three wells operated by the Warrington Township PWS in 2014 detected PFOS concentrations in excess of the PHA value, and as high as approximately 1.6 µg/l PFOS.

19. Water samples taken by the Navy in February 2015, downstream of a storm water detention basin located on the Facility, which discharges to an unnamed tributary that joins Park Creek north of the Facility, showed PFC concentrations in excess of PHA values, and as high as approximately 0.97 µg/l PFOA and 5.2 µg/l PFOS.

20. Due to PFCs present in wells operated by the Horsham Township PWS ID # PA1460033 (Well Nos. 26 and 40), located near the southwestern and northern boundaries of the Navy Property adjacent to the Facility, EPA and the Navy are conducting a time-critical response, known as a "Removal Action" under CERCLA, pursuant to an Interagency Agreement (IAG) and final Statement of Work (SOW) (August 13, 2014), to identify and sample private drinking water supply wells in the Vicinity of the Facility and the Navy Property for the presence of PFCs.

21. To date, nine (9) PWS wells and approximately 50 private drinking water supply wells identified through the SOW in the Vicinity of the Facility and within a one-mile radius of the Navy property have been identified as having PFOS levels in excess of PHA values. The Navy has provided bottled water to these affected residences because of PFC contamination of those residences' private drinking water supply wells.

22. The aquifer underlying the Facility is an underground source of drinking water (USDW) within the meaning of 40 C.F.R. § 144.3, and it supplies both private and public drinking water supply wells for human consumption.

23. The detection of PFOA and PFOS in ground water samples taken by Respondent Air National Guard in October 2014 from the aquifer underlying the Facility, demonstrates the presence of PFC contamination in the USDW.

24. PFCs have also been identified and exceed the PHA for PFOS in PWS wells owned and operated by the following: Warrington Township (PWS ID #PA1090070), the Estate of S.J. LaRocca (PWS ID #PA1461202), and in several private drinking water supply wells to the northeast and east of the Facility.

25. The USDW underlying the Facility is not an "exempted aquifer" within the meaning of 40 C.F.R. § 146.4.

26. PADEP has requested that EPA take all necessary actions to protect the health of affected persons due to the presence of PFOA and PFOS in excess of PHA levels in the Facility's finished water supply and other public and private drinking water supply wells in the Vicinity of the Facility, which are supplied by water from a USDW. Therefore, this Order is necessary to protect human health.

27. EPA has determined that PFOS and PFOA are contaminants present in or likely to enter a PWS or a USDW which may present an imminent and substantial endangerment to human health at concentrations at or above 0.2 µg/l for PFOS and 0.4 µg/l for PFOA in drinking water in the Vicinity of the Facility.

## **V. CONCLUSIONS OF LAW**

Based on the foregoing, EPA makes the following Conclusions of Law:

28. Respondents are Federal agencies of the United States Government, and therefore are "persons" pursuant to Section 1401(12) of the SDWA, 42 U.S.C. § 300f(12).

29. PFOA and PFOS are "contaminants," as defined herein.

30. The ground water beneath or in the Vicinity of the Facility is an "underground source of drinking water, (USDW)" as that term is defined in 40 C.F.R. § 144.3.

31. PFOS and PFOA have been found in Public Water System wells at the Facility and in public and private drinking water supply wells in the Vicinity of the Facility above PHA levels. PFOS and PFOA may also be present in additional public and private drinking water supply wells in the Vicinity of the Facility, at or above PHA levels.

32. Concentrations of PFOS and/or PFOA at or above PHA levels may endanger the health of persons. These contaminants are present in or likely to enter USDWs at or in the Vicinity of the Facility and may present an imminent and substantial endangerment to the health of persons, within the meaning of Section 1431(a) of SDWA, 42 U.S.C. § 300i(a).

33. Respondents have caused or contributed to the endangerment described immediately above, and have joint and several liability for such endangerment.

34. PADEP has requested that EPA act on its behalf to require Respondents to establish a plan for the long-term provision of an alternate water supply. Therefore, this Order is necessary to protect human health.

35. Based on the endangerment described herein, the response actions required by this Order are necessary to protect the health of persons who are or may be users of the USDW in the vicinity of the Facility.

36. All requisite conditions have been satisfied for EPA action under Section 1431(a)(1) of the SDWA, 42 U.S.C. § 300i.

## **VI. ORDER**

Pursuant to the authority vested in the EPA Administrator by Section 1431(a)(1) of the SDWA, 42 U.S.C. § 300i(a)(1), and delegated to the Regional Administrators, the Respondents are ORDERED to perform the following activities:

37. Within five days of the effective date of this Order, Respondents shall provide written notification to EPA of their intent to comply with the terms of this Order.

38. Facility Investigation Plan (FIP). Unless otherwise specified below, Respondents shall provide the information described in Paragraph 38.a.i-iv below to EPA within 30 days of the effective date of this Order. The time period covered by the following information begins at the date that Respondents acquired the use of the Facility and continues through the effective date of this Order.

- a. Information regarding the location of any storage, use and/or discharge at or from the Facility of any substance, including water, containing any concentrations of PFCs including but not limited to: (i) PFOA; (ii) PFOS; and/or (iii) Class B firefighting foams including but not limited to Aqueous Film Forming Foams (AFFF). This information shall include:
  - i. An inventory of all above- and below-ground storage tanks at the Facility which may have at any time contained any PFC(s). For each such tank,

include at a minimum the following information: (1) the date on which such tank was installed; (2) information describing all historical uses of such tank(s); (3) all records for cleaning and/or drainage; (4) a complete list of all additional substances introduced into such tank(s), including but not limited to water; (5) copies of aerial photographs depicting any such tank(s); and (6) current status of each tank (*e.g.*, currently active, no longer used, etc.).

- ii. All available information regarding the discharge or release of water or any other substance from the Facility which may at any time have contained any PFC(s) including but not limited to any tank, reservoir, impoundment or other container at the Facility, by whatever means, either directly to the ground, surface waters, or indirectly through storm or sanitary sewers.
  - iii. Complete documentation or records regarding the disposition of any clean-out materials for tanks, drums, impoundments or similar containers which may at any time have contained any PFC(s).
  - iv. Using a map format with coordinates, identify the location of any existing monitoring wells at the Facility; the depths of such wells and whether previously sampled for the presence of PFCs.
- b. Based on the information reported in Paragraph 38.a herein, develop and submit to EPA, within 45 days of the effective date of this Order, for review and approval a written Facility Investigation Plan (FIP) which includes a monitoring plan to investigate for the presence or likely presence of PFCs at the Facility. The FIP shall include provisions requiring proposed monitoring of tanks, storage areas and any other areas where PFCs were historically used at the Facility including Hangar 201. Within 90 days of receipt of EPA's written approval of the FIP, Respondents shall submit the monitoring results for the contents of any monitoring wells, tank(s), etc., sampled at the Facility as part of the approved FIP.
- c. Following review of the sampling results submitted pursuant to this Paragraph 38.b above, EPA may require, pursuant to this Order and any other authority, additional monitoring or remediation at the Facility to eliminate continued discharge of PFCs to the ground water and/or surface water. Such additional monitoring and/or remediation may be part of new or continuing Respondent-led Federal Facility Agreements (FFAs) and/or Remedial Investigations (RI/FS) implemented in coordination with EPA and PADEP.

39. Public Water System Wells. Respondents shall perform the following work as it relates to the Public Water System wells on and in the Vicinity of the Facility with PFC levels above the PHAs:

- a. Within 60 days of the effective date of this Order, Respondents shall provide a written Remediation Plan for Contaminated Public Drinking Water Wells (Public Remediation Plan) to EPA, for review and approval to address:
  - i. Contamination of Horsham Air Guard Supply Wells No. 1 and 2;
  - ii. Contamination of the Warrington (PWS ID #PA1090070) wells;
  - iii. Contamination of the Estate of S.J. LaRocca (PWS ID #PA1461202) wells; and
  - iv. Any additional PWS wells determined pursuant to the SOW, its amendments or this Order, to have PFC levels exceeding PHA values that are within an approximate one-mile radius extending from the outer edges of the Facility or the Navy Property boundary, respectively.
- b. The type of remediation selected in the Public Remediation Plan may include but shall not be limited to one of the following alternatives:
  - i. Installation of permanent treatment, which may include carbon treatment (CT) on the impacted wells;
  - ii. Connection to a public water system that contains less than the PHA values for PFOA and PFOS in finished water; or
  - iii. The construction of new wells if treatment cannot be installed or an alternate connection is not available, and the new well contains less than the PHA values for PFOA and PFOS .
- c. The Public Remediation Plan shall include deadlines and interim milestones for completion of all activities within 365 days of receipt of EPA's written approval of such Plan. Until such time as the remediation is completed, Respondents must provide alternate water in the form of bottled or bulk water to the users of the affected PWS.
- d. Upon receipt of EPA's approval of the Public Remediation Plan, Respondents shall implement such Plan in accordance with its terms.
- e. For any PWS wells found to have PFC concentrations above PHA values, and at which Respondents have installed CT, Respondents shall ensure operation

and maintenance of each such CT system in good working order, including but not limited to timely carbon bed changes. Respondents shall continue to ensure operation and maintenance of each CT system until they are able to demonstrate to the satisfaction of EPA that the water source in the system prior to CT contains less than the PHA values for PFOA and PFOS for four consecutive quarters.

40. Private Drinking Water Supply Wells. The Respondents shall perform the following activities:

- a. Short-Term Provision of Alternate Drinking Water. Until a permanent drinking water supply with PFCs below PHA levels is available, Respondents shall provide bottled water for users of those private drinking water supply wells identified under the August 13, 2014 SOW required by the EPA-Navy IAG (included as Administrative Record Document No. 32 hereto and incorporated herein) or pursuant to this Order, where existing validated data demonstrates levels of PFOA or PFOS are at or above the PHA in their finished water for wells located in the Vicinity of the Facility.
- b. Long-Term Remediation Plan for Contaminated Private Drinking Water Supply Wells (Private Remediation Plan). Respondents shall within 30 days of the effective date of this Order develop and submit to EPA for approval a written Private Remediation Plan to provide a “permanent drinking water supply” that meets all of the following criteria: (i) water that meets the water quality requirements of 40 C.F.R. Part 141; (ii) finished water that has a level of PFOA less than 0.40 µg/l and PFOS less than 0.20 µg/l; (iii) water that is in sufficient quantity for drinking and cooking; and (iv) water that is provided in a manner convenient to the users. Within 30 days of EPA’s receipt of information that a private well is above PHA levels of PFCs, Respondent shall implement such plan for such well. The written Private Remediation Plan shall include either of the following options:
  - i. Treatment Option. The Treatment Option shall include the following: (1) providing a written offer with a deadline for response to each private well owner who has an impacted well to install and provide for operation and maintenance of treatment of such well, such as CT or an alternate EPA-approved type of treatment (including a draft operation and maintenance agreement), at Respondents’ expense; (2) a list of all necessary local, state and federal permits and a plan to obtain and comply with such permits; (3) establishment of quarterly monitoring events; (4) a schedule for design and implementation of the EPA-approved treatment system; and (5) identification of technical and other information needed from the owner or resident of the water source (for systems located at a residence where an owner does not reside), to enable Respondents to design and install the EPA-approved treatment system.

- ii. Connection to Alternate Water Supply. Connection to alternate water supply shall include the submission of a written plan to EPA for approval which provides for the connection of contaminated Private Drinking Water Supply Wells to any public water system that contains less than the PHA values for PFOA and PFOS in finished water.
- c. Implementation of Private Remediation Plan. Upon receipt of EPA approval of the Private Remediation Plan, Respondents shall implement such Plan in accordance with its terms.
- d. Private Drinking Water Supply Wells Receiving Treatment. Respondents shall provide for operation and maintenance of each EPA-approved treatment system. If CT is the EPA-approved method pursuant to this Paragraph, Respondents shall ensure the timely replacement of carbon filters until they demonstrate to the satisfaction of EPA that the source contains less than 0.40 µg/l PFOA and/or 0.20 µg/l PFOS for four consecutive quarters.
- e. Owner or Resident Rejection of Private Remediation Plan. Within five days of Respondents' receipt of information that any private well owner or resident (for systems located at a residence where an owner does not reside) does not wish to accept treatment or connection, including written notice or failure to accept the offer, within the deadline specified in the written offer, Respondents shall inform EPA of such rejection in writing.

41. Reporting. Within ninety (90) days of the effective date of this Order, and every 90 days thereafter while this Order remains in effect, Respondents shall submit to EPA for review quarterly reports which identify all work completed pursuant to this Order, including but not limited to monitoring, installation of carbon treatment systems on Facility supply wells, public and private drinking water supply wells, and the identification of any residences which are connected to PWSs as required herein. The Report shall include a summary of activities taken to comply with this Order and a summary of all analytical data generated during each quarter.

42. Respondents shall submit all reports required by this Order to:

Chief, Ground Water & Enforcement Branch  
United States Environmental Protection Agency, Region III  
1650 Arch Street (3WP22)  
Philadelphia, PA 19103



43. EPA Reservation of Rights. Notwithstanding any other provisions of this Order, EPA reserves the right to modify the PHA values for PFOA and PFOS if information unknown to EPA prior to the effective date of this Order is received and EPA determines that the PHA may not be protective of human health.

44. Document Certification. Any deliverable submitted by Respondents shall be certified by a “principal executive officer” or “ranking elected official” as defined at 40 C.F.R. § 270.11(a)(3) and shall be in the following form:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is, to be the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fines and imprisonment for knowing violation.

Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

## **VII. DESIGNATION OF SUPERVISING CONTRACTOR**

45. Within ten (10) days after the effective date of this Order, Respondents shall retain the services of a qualified and experienced Supervising Contractor for the purpose of performing the work required by this Order in accordance with the terms and conditions of the FIP, Public Remediation Plan, and Private Remediation Plan as described herein. Within the same ten (10) day period, Respondents shall notify EPA in writing of the name, address, and qualifications of the proposed Supervising Contractor and the name and telephone number of the Supervising Contractor's primary contact person. Respondents shall also notify EPA of the

identity and qualifications of any other contractor(s) or subcontractor(s) to be used at least five (5) days in advance of their performing any work under this Order .

46. Respondents shall provide a copy of this Order to all contractors, subcontractors, and consultants retained in connection with this Order within ten (10) days after the Order's effective date or of such retention, whichever is later. Respondents shall ensure that all such contractors, subcontractors, and consultants will perform all work in conformity with SDWA and the terms and conditions of this Order.

#### **VIII. TECHNICAL PROJECT COORDINATOR**

47. Within ten (10) days after the effective date of this Order, Respondents shall identify a Technical Project Coordinator (TPC) and provide all contact information for the TPC to EPA. The TPC shall ensure the performance of Respondents' responsibilities under this Order and provide all written notices, reports, plans and other documents required by this Order to EPA.

#### **IX. INCORPORATION AND ENFORCEABILITY OF DOCUMENTS**

48. Upon approval by EPA, all plans, reports, specifications, schedules, or other items required by or developed under this Order shall be deemed incorporated into, and made an enforceable part of, this Order.

#### **X. FACILITY ACCESS**

49. To the extent that Respondents own, occupy, lease or control property at which access by EPA is required in order to properly carry out the terms of this Order, Respondents shall grant access to EPA, its officers, employees, agents, contractors, consultants, and other authorized representatives for purposes of implementing and monitoring work to be performed under this Order.

50. To the extent that access to, use or ownership of, or easements over property other than the Facility is required for the proper and complete implementation of this Order, Respondents shall use their best efforts to obtain access agreements or other interests in the property, in writing, sufficient to allow implementation of this Order within twenty-one (21) days after the Order's effective date or when such need for access is identified, whichever is later. For purposes of this paragraph, "best efforts" include but are not limited to the payment of money, consistent with the Anti-Deficiency Act, in consideration of access to property.

51. In the event that access agreements or other interests sufficient for implementation and monitoring of work under this Order are not obtained within the time period specified above, Respondents shall notify EPA in writing within three (3) days thereafter regarding the lack of such agreements and the efforts made by the Respondents to obtain them. Lack of access shall not excuse or justify failure to perform any activity or to meet any deadline not requiring or directly dependent upon such access.

#### **XI. QUALITY ASSURANCE/SAMPLING**

52. Immediately upon receipt, Respondents shall submit to EPA the results of all sampling or tests and all other data generated by Respondents, their contractor(s), or on the Respondents' behalf in the course of implementing this Order. Respondents shall use quality assurance, quality control, and chain of custody procedures throughout all field investigation, sample collection and laboratory analysis activities. Respondents shall develop a Quality Assurance Project Plan in accordance with EPA guidance and the Uniform Federal Policy for Quality Assurance Project Plans (March 2005). Respondents shall also provide documentation of the quality assurance/quality control procedures followed by all sampling teams and laboratories performing data collection and/or analysis. All sampling methods and analysis shall

be in accordance with the UCMR sampling protocol for PFC sampling using Method 537 or equivalent.

53. On request, Respondents shall allow EPA, PADEP, or their authorized representatives to take split or duplicate samples of any samples collected by Respondents while performing work under this Order. In addition, EPA shall have the right to take any additional samples that it deems necessary.

## **XII. RECORD PRESERVATION CONFIDENTIALITY CLAIMS**

54. For a period of at least five (5) years following completion of all work conducted by Respondents pursuant to this Order, Respondents shall preserve all documents, records, and information of whatever kind, nature or description in their possession or control or that of their employees, agents, accountants, contractors, attorneys, successors and assigns, that relate in any way to the performance of work under this Order, or relate in any way to releases or threatened releases of contaminants from Facility. After this five (5) year period has expired, Respondents shall provide EPA with thirty (30) days advance written notice prior to the destruction of any such records, documents, or information. Respondents shall send such notice, accompanied by a copy of this Order, to EPA. On request, Respondents shall provide to EPA copies of all such records, documents or information.

55. Respondents may assert a confidentiality claim, if appropriate, covering the information required by or requested by EPA under this Order, pursuant to Section 1445(d)(1) of SDWA, 42 U.S.C. § 300j-4(d)(1). However, no documents, reports, or other information generated or created pursuant to the requirements of this Order shall be withheld from EPA on the grounds of any privilege. In addition, pursuant to Section 1445(d)(2) of SDWA, 42 U.S.C. §

300j-4(d)(2), any information pertaining to contaminant levels found in drinking water shall be disclosed as required by such section.

### **XIII. AMENDMENTS**

56. This Order, other than the FIP, Public Remediation Plan and Private Remediation Plan, may only be amended in writing by signature of the Water Protection Division Director of EPA Region III. Amendments to the FIP, Public Remediation Plan and Private Remediation Plan, may be made in writing by the Chief, EPA Ground Water & Enforcement Branch and/or his/her designee.

### **XIV. OTHER APPLICABLE LAWS**

57. Respondents shall undertake all actions required pursuant to this Order in accordance with the requirements of all applicable local, state, and federal laws and regulations, including but not limited to, the laws relating to occupational health and safety and worker's compensation.

### **XV. ENFORCEMENT: PENALTIES FOR NONCOMPLIANCE**

58. Any violation of this Order, or failure or refusal to comply with this Order, may subject the Respondents, as appropriate, to:

- a. an action under Section 1447(b) of the SDWA, 42 U.S.C. § 300j-6, for civil penalties of up to sixteen thousand five hundred dollars (\$16,500) for each day in which such violation occurs or failure to comply continues; or
- a. a citizen's civil action under Section 1449 of SDWA, 42 U.S.C. § 300j-8.

### **XVI. RESERVATION OF RIGHTS BY EPA**

59. EPA reserves all rights it may have to take any further civil or criminal enforcement action against Respondents and all other persons pursuant to any available legal authority. Nothing in this Order shall preclude EPA from taking enforcement actions, including

modification of this Order or issuance of additional Orders, or additional actions as EPA may deem necessary, or from requiring Respondents in the future to perform additional activities pursuant to the SDWA or any other applicable law.

60. EPA further expressly reserves the right both to disapprove work performed by Respondents and to request or order Respondents to perform tasks in addition to those detailed in this Order.

61. Notwithstanding any other provision of this Order, EPA shall retain all of its information-gathering, entry, inspection, and enforcement authorities and rights under any applicable law, regulation, or permit.

#### **XVII. OPPORTUNITY TO CONFER**

62. Within three (3) days after receipt of this Order by Respondents, Respondents may request a conference with the Water Protection Division Director of EPA Region III or his designee to be held no later than six (6) days after Respondents' receipt of this Order unless a different date is confirmed by EPA. Requests for a conference shall be submitted to:

Chief, Ground Water and Enforcement Branch  
U.S. Environmental Protection Agency, Region III  
1650 Arch Street  
Philadelphia, PA 19103

63. The purpose and scope of the conference shall be to discuss the issue(s) that Respondents would like the Water Protection Division Director to consider in connection with this Order. Respondents may submit any appropriate information regarding the issue(s) to be discussed. The conference is not an evidentiary or adversarial hearing and is not part of any proceeding to enforce or challenge the Order. At any conference held pursuant to this Section, the Respondent may appear in person or by attorney or other representative.

#### **XVIII. EXCUSED DELAY - FORCE MAJEURE**

64. Respondents' activities under this Order shall be performed within the time limits set forth herein, or otherwise established or approved by EPA, unless performance is delayed or prevented by events which constitute "force majeure." For purposes of this Order, "force majeure" is defined as any event arising from causes beyond a Respondent's control which cannot be overcome by the exercise of due diligence or best efforts. "Force majeure" shall not include any inability of Respondents to pay the costs or expenses associated with complying with this Order, or increases in such costs or expenses, except as provided in Section XX herein, Anti-Deficiency Act.

65. When an event constituting "force majeure" occurs, Respondents shall perform the affected activities within a time period not to exceed the time provided in this Order and the period of delay attributable to the "force majeure." Respondents shall use their due diligence and best efforts to avoid or minimize any delay or prevention of their performance of their obligations under this Order, and to discover and keep apprised of any and all circumstances which may result in a delay or prevention of the work required under this Order.

66. Respondents shall verbally notify the EPA's TPC as soon as possible, and not later than forty-eight (48) hours, after discovering that circumstances have occurred or are likely to occur that may delay or prevent the performance of any activity required by this Order, regardless of whether or not those circumstances constitute a "force majeure." If the TPC cannot be reached, Respondents shall leave a telephone message or electronic mail at the TPC's office. Respondents also shall notify EPA in writing within seven (7) days after the date Respondents first became aware of the circumstances which may delay or prevent any performance of any activity required by this Order. Such written notice shall be accompanied by all available pertinent documentation including, but not limited to, third-party correspondence, and shall

contain: (1) a description of the circumstances and the Respondents' rationale for interpreting such circumstances as being beyond their control; (2) the actions (including pertinent dates) Respondents have taken or intend to take to avoid or minimize any delay; and (3) the date or time period Respondents propose to complete the delayed activities. Such notification shall not in and of itself relieve Respondents of any obligations under this Order. Respondents' failure to timely and properly notify EPA as required by this paragraph shall nullify any claim of "force majeure" and resulting entitlement to any extension of time therefor. Respondents shall have the burden of proving to EPA's satisfaction that an event constituting "force majeure" has occurred.

#### **XIX. EFFECTIVE DATE - COMPUTATION OF TIME**

67. This Order constitutes a final agency action which shall become effective within seven (7) calendar days of receipt of this Order if no conference with the Water Division Director for EPA Region III is requested pursuant to Section XVII of this Order. If a conference with the Water Division Director is requested in the time and manner provided in Section XVII, this Order shall become effective within five (5) calendar days of Respondents' receipt of the Water Division Director's decision regarding implementation of this Order. All times for performance of Work under this Order shall be calculated from the effective date.

#### **XX. ANTI-DEFICIENCY ACT**

68. Nothing in this Order shall require Respondents to violate the Anti-Deficiency Act, 31 U.S. C. §§ 1341 *et seq.*

#### **XXI. SEVERABILITY**

69. The invalidity or unenforceability of any provision(s) of this Order shall not affect the validity or enforceability of any other provision(s) of this Order, which shall remain in full force and effect.



69. The invalidity or unenforceability of any provision(s) of this Order shall not affect the validity or enforceability of any other provision(s) of this Order, which shall remain in full force and effect.

## **XXII. TERMINATION**

70. The provisions of this Order shall remain in full force and effect until all actions required by this Order have been completed and EPA has notified the Respondents, in writing, that the actions required by this Order have been completed. Respondents shall notify EPA in writing at such time as they believe that all such actions have been completed. EPA shall have sole discretion in determining whether all such actions have in fact been completed. Failure to complete all actions required hereunder as directed by EPA shall be deemed a violation of this Order. EPA's provision of written notice to Respondents pursuant to this paragraph shall not be construed as a waiver of any of EPA's rights to take further enforcement action under SDWA or any other laws.

IT IS SO ORDERED. Issued at Philadelphia, Pennsylvania this 13<sup>th</sup> day of May, 2015.



Jon M. Capacasa  
Director, Water Protection Division  
U.S. Environmental Protection Agency, Region III  
Philadelphia, PA

